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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/869,031	10/16/2001	Mirna Rapp	0843.0002	7920

7590 06/28/2004

Finnegan Henderson Farabow Garrett & Dunner
1300 I Street NW
Washington, DC 20005

EXAMINER

SCHNIZER, HOLLY G

ART UNIT	PAPER NUMBER
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1653

DATE MAILED: 06/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/869,031

Applicant(s)

RAPP, MIRNA

Examiner

Holly Schnizer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 25-58 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 25-35,37-51,54-56 and 58 is/are allowed.
- 6) ☒ Claim(s) 36,52,53 and 57 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. <u>20040623</u> . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/22/01, 8/9/01, 12-18-03</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of the Claims

The Preliminary Amendment filed June 22, 2001 has been entered and considered. Claims 1-24 have been cancelled and Claims 25-58 have been added. Therefore, Claims 25-58 are pending and have been considered on the merits.

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file. A translation of all of the priority documents has been obtained and the present claims are considered to be supported by the priority documents.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 36, 53, and 57 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 36 recites the limitation "the preparation" in line 1. There is insufficient antecedent basis for this limitation in the claim. In addition, Claim 36 is drawn to a wound care fleece, however the only limitation is to a method step. Therefore, the claim is unclear as to whether a product or method was intended. Correction is required.

Claim 52 recites the limitation "adding other biological, vegetable, or synthetic active substances" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim. The recitation of "other" biological, vegetable, or synthetic active substances implies that the claim from which they depend refers to such substances. The thrombin, factor XIII, and fibrinogen of claim 25 are considered biological active substances. However, Claim 25 does not refer to any vegetable or synthetic active substances thus there is insufficient antecedent basis for other vegetable or other synthetic active substances.

Claim 53 recites the limitation "biological, vegetable, or synthetic active substances" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim. The claim is unclear where "biological, vegetable, or synthetic active substances are used in the claimed method since they are not referred to in the claims from which it depends.

Claim 57 is unclear as to what is meant by "biological factors". Is this term limited to coagulation factors or is it open to any biological product? Thus, the metes and bounds of the claim are unclear.

Conclusions

Claims 36, 52, 53, and 57 are rejected. Claims 25-35, 37-51, 54-56, and 58 are in condition for allowance. All claims appear to be free of the prior art. The prior art of record does not appear to teach or suggest making or using fibrin adhesive granulate

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pellets with the claimed particle sizes that comprise thrombin, factor XIII, fibrinogen and a calcium salt. U.S. Patent No. 4,427,651 appears to be the closest prior art. However, the '651 patent teaches away from making microparticles outside the range of 0.1-5 μ m and states that coarser powders cannot be sufficiently sprayed and their dissolution in body fluid is delayed (Col. 7, lines 44-50).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Holly Schnizer whose telephone number is (571) 272-0958. The examiner can normally be reached on Monday through Wednesday from 8 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Low can be reached on (571) 272-0951. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Holly Schnizer

June 23, 2004



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